

House Study Bill 196 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON EDUCATION BILL BY
CHAIRPERSON JORGENSEN)

A BILL FOR

1 An Act relating to state and school antiharassment and
2 antibullying policies.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 280.28, Code 2013, is amended to read as
2 follows:

3 **280.28 Harassment and bullying prohibited — policy —**
4 **immunity.**

5 1. *Purpose — findings — policy.* The state of Iowa is
6 committed to providing all students with a safe and civil
7 school environment in which all members of the school community
8 are treated with dignity and respect. The general assembly
9 finds that a safe and civil school environment is necessary
10 for students to learn and achieve at high academic levels.
11 Harassing and bullying behavior can seriously disrupt the
12 ability of school employees to maintain a safe and civil
13 environment, and the ability of students to learn and succeed.
14 Therefore, it is the policy of the state of Iowa that school
15 employees, volunteers, and students in Iowa schools shall not
16 engage in harassing or bullying behavior.

17 2. *Definitions.* For purposes of this section, unless the
18 context otherwise requires:

19 a. "Bullying" means any electronic, written, verbal,
20 or physical act or conduct toward a student which is based
21 on any reason other than any actual or perceived trait or
22 characteristic of the student and which creates an objectively
23 hostile school environment that meets one or more of the
24 following conditions:

25 (1) Places the student in reasonable fear of harm to the
26 student's person or property.

27 (2) Has a substantially detrimental effect on the student's
28 physical or mental health.

29 (3) Has the effect of substantially interfering with a
30 student's academic performance.

31 (4) Has the effect of substantially interfering with
32 the student's ability to participate in or benefit from the
33 services, activities, or privileges provided by a school.

34 a. b. "Electronic" means any communication involving the
35 transmission of information by wire, radio, optical cable,

1 electromagnetic, or other similar means. *"Electronic"* includes
2 but is not limited to communication via electronic mail,
3 internet-based communications, pager service, cell phones, and
4 electronic text messaging, social networking internet sites,
5 and any other form of communication using electronic means.

6 ~~b. c.~~ *"Harassment"* and ~~*"bullying"*~~ shall be construed to
7 ~~mean~~ means any electronic, written, verbal, or physical act
8 or conduct toward a student which is based on any actual or
9 perceived trait or characteristic of the student and which
10 creates an objectively hostile school environment that meets
11 one or more of the following conditions:

12 (1) Places the student in reasonable fear of harm to the
13 student's person or property.

14 (2) Has a substantially detrimental effect on the student's
15 physical or mental health.

16 (3) Has the effect of substantially interfering with a
17 student's academic performance.

18 (4) Has the effect of substantially interfering with
19 the student's ability to participate in or benefit from the
20 services, activities, or privileges provided by a school.

21 ~~e. d.~~ *"Trait or characteristic of the student"* includes but
22 is not limited to age, color, creed, national origin, race,
23 religion, marital status, sex, sexual orientation, gender
24 identity, physical attributes, physical or mental ability or
25 disability, ancestry, political party preference, political
26 belief, socioeconomic status, ~~or~~ familial status, or any other
27 distinguishing characteristic. This listing of traits and
28 characteristics is not exhaustive. This paragraph shall be
29 construed broadly to achieve the purposes of this section.

30 ~~d. e.~~ *"Volunteer"* means an individual who has regular,
31 significant contact with students.

32 3. *Policy.* On or before September 1, 2007, the board of
33 directors of a school district and the authorities in charge of
34 each accredited nonpublic school shall adopt a policy declaring
35 harassment and bullying in schools, on school property, and at

1 any school function, or school-sponsored activity regardless
2 of its location, in a manner consistent with this section, as
3 against state and school policy. The board and the authorities
4 shall make a copy of the policy available to all school
5 employees, volunteers, students, and parents or guardians and
6 shall take all appropriate steps to bring the policy against
7 harassment and bullying and the responsibilities set forth in
8 the policy to the attention of school employees, volunteers,
9 students, and parents or guardians. Each policy shall, at a
10 minimum, include all of the following components:

11 a. A statement declaring harassment and bullying to be
12 against state and school policy. The statement shall include
13 but not be limited to the following provisions:

14 (1) School employees, volunteers, and students ~~in~~
15 ~~school, on school property, or at any school function or~~
16 ~~school-sponsored activity~~ shall not engage in harassing
17 and bullying behavior in any of the following locations or
18 circumstances:

19 (a) In school.

20 (b) On school property.

21 (c) In any vehicle which is owned, leased, provided, or
22 hired by the school.

23 (d) At any school function or school-sponsored activity.

24 (e) While using any property or equipment which is owned,
25 leased, or provided by the school.

26 (2) School employees, volunteers, and students shall not
27 engage in reprisal, retaliation, or false accusation against a
28 victim, witness, or an individual who has reliable information
29 about such an ~~act~~ incident of harassment or bullying or against
30 an individual who has reported an incident of harassment or
31 bullying under a policy adopted pursuant to this section.

32 b. A definition of harassment and bullying as set forth in
33 this section.

34 c. A description of the type of behavior expected from
35 school employees, volunteers, parents or guardians, and

1 students relative to prevention measures, reporting, and
2 investigation of harassment or bullying.

3 *d.* The consequences and appropriate remedial action for a
4 person who violates the antiharassment and antibullying policy.

5 *e.* A procedure for reporting an ~~aet~~ incident of harassment
6 or bullying, including the identification by job title of the
7 school official responsible for ensuring that the policy is
8 implemented, and the identification of the person or persons
9 responsible for receiving reports of incidents of harassment
10 or bullying.

11 *f.* A procedure for the prompt investigation of ~~complaints~~
12 reports, either identifying the school superintendent or the
13 superintendent's designee as the individual responsible for
14 conducting the investigation, including a statement that
15 investigators will consider the totality of circumstances
16 presented in determining whether conduct objectively
17 constitutes harassment or bullying under this section.

18 *g.* A statement of the manner in which the policy and the
19 process for reporting incidents of harassment or bullying will
20 be publicized.

21 4. *Programs encouraged.* The board of directors of a school
22 district and the authorities in charge of each accredited
23 nonpublic school are encouraged to establish evidence-based
24 programs designed to eliminate harassment and bullying in
25 schools. To the extent that funds are available for these
26 purposes, school districts and accredited nonpublic schools
27 shall do the following:

28 *a.* Provide training on antiharassment and antibullying
29 policies to school employees and volunteers who have
30 significant contact with students.

31 *b.* Develop a process to provide school employees,
32 volunteers, and students with the skills and knowledge to help
33 reduce incidents of harassment and bullying.

34 5. *Immunity.*

35 *a.* A school employee, volunteer, or student, or a student's

1 parent or guardian who promptly, reasonably, and in good faith
2 reports an incident of harassment or bullying, in compliance
3 with the procedures in the policy adopted pursuant to this
4 section, to the appropriate school official designated by the
5 school district or accredited nonpublic school, shall be immune
6 from civil or criminal liability relating to such report and
7 to participation in any administrative or judicial proceeding
8 resulting from or relating to the report.

9 b. A school employee who promptly, reasonably, and in
10 good faith makes an effort to follow the procedures in the
11 policy adopted pursuant to this section upon the school's
12 receipt of a report of an incident of harassment or bullying,
13 or who determines not to investigate or take further action
14 regarding a report of an incident of harassment or bullying
15 that allegedly occurred outside the locations or circumstances
16 provided in subsection 3, paragraph "a", subparagraph (1),
17 shall be immune from civil or criminal liability relating
18 to such effort or determination and to participation in
19 any administrative or judicial proceeding resulting from or
20 relating to the effort or determination.

21 6. *Collection requirement.* The board of directors of
22 a school district and the authorities in charge of each
23 nonpublic school shall develop and maintain a system to collect
24 harassment and bullying incidence data.

25 7. *Integration of policy and reporting.* The board of
26 directors of a school district and the authorities in charge of
27 each nonpublic school shall integrate its antiharassment and
28 antibullying policy into the comprehensive school improvement
29 plan required under section 256.7, subsection 21, and shall
30 ~~report data collected under subsection 6, as specified by the~~
31 ~~department, to~~ the following information to the local community
32 and the department:

33 a. Data collected under subsection 6, as specified by the
34 department.

35 b. The process used for reporting incidents of harassment

1 or bullying, including the means of accessing the policy and
2 online and other methods for such reporting.

3 c. Antiharassment and antibullying training provided to or
4 performed by school employees, volunteers, or students during
5 each school year.

6 8. *Existing remedies not affected.* This section shall not
7 be construed to preclude a victim from seeking administrative
8 or legal remedies under any applicable provision of law.
9 This section shall not be construed to limit or alter the
10 responsibility of a school district or accredited nonpublic
11 school to comply with other state or federal education or civil
12 rights laws that protect against harassment or discrimination.

13 9. *Rulemaking authority.* The department of education may
14 adopt rules under chapter 17A necessary to implement this
15 section.

16 10. *Rules of construction.*

17 a. This section shall not be construed to permit restraint
18 of or discipline for speech addressing legitimate matters of
19 public concern, including speech that a reasonable person would
20 consider an expression of political beliefs, religious beliefs,
21 or other categories of expression protected by the United
22 States and Iowa Constitutions, or that a reasonable person
23 would not find substantially likely to constitute "harassment"
24 or "bullying" as defined in this section.

25 b. This section shall not be construed to prohibit a
26 school district or accredited nonpublic school from responding
27 to or addressing an act or conduct that would constitute
28 "harassment" or "bullying" as defined in this section but for
29 the fact that the act or conduct occurred outside the locations
30 or circumstances provided in subsection 3, paragraph "a",
31 subparagraph (1).

32 EXPLANATION

33 This bill makes various changes relating to state and school
34 antiharassment and antibullying policies.

35 Under current law, "harassment" and "bullying" are defined

1 as any electronic, written, verbal, or physical act or conduct
2 toward a student which is based on any actual or perceived
3 trait or characteristic of the student and which creates an
4 objectively hostile school environment that meets certain
5 conditions. The bill distinguishes these two terms. The bill
6 defines "harassment" as any electronic, written, verbal, or
7 physical act or conduct toward a student which is based on any
8 actual or perceived trait or characteristic of the student and
9 which creates an objectively hostile school environment that
10 meets certain conditions. The bill defines "bullying" as any
11 electronic, written, verbal, or physical act or conduct toward
12 a student which is based on any reason other than any actual
13 or perceived trait or characteristic of the student and which
14 creates an objectively hostile school environment that meets
15 certain conditions.

16 Under current law, "trait or characteristic of the student"
17 is defined to include but not be limited to age, color,
18 creed, national origin, race, religion, marital status, sex,
19 sexual orientation, gender identity, physical attributes,
20 physical or mental ability or disability, ancestry, political
21 party preference, political belief, socioeconomic status, or
22 familial status. The bill applies the definition to any other
23 distinguishing characteristic of a student. The bill provides
24 that the definition is not exhaustive and must be construed
25 broadly to achieve the purposes of the bill.

26 The bill adds social networking internet sites and any other
27 form of communication using electronic means to the definition
28 of "electronic".

29 Under current law, school antiharassment and antibullying
30 policies must prohibit harassment and bullying in school, on
31 school property, and at any school function or school-sponsored
32 activity. The bill adds presence in any vehicle owned, leased,
33 provided, or hired by the school and during the use of any
34 property or equipment owned, leased, or provided by the school
35 to this list.

1 The bill requires school antiharassment and antibullying
2 policies to prohibit reprisal, retaliation, or false accusation
3 against an individual who has reported an incident of
4 harassment or bullying under the bill. The bill provides that
5 school antiharassment and antibullying policies must require
6 the process for reporting incidents of harassment or bullying
7 to be publicized.

8 The bill provides that a school employee who promptly,
9 reasonably, and in good faith makes an effort to follow the
10 procedures in the school's antiharassment and antibullying
11 policy upon the school's receipt of a report of an incident of
12 harassment or bullying, or who determines not to investigate or
13 take further action on a report of an incident of harassment
14 or bullying that allegedly occurred outside the locations or
15 circumstances covered by the policy, is immune from any related
16 civil or criminal liability and from participation in any
17 related administrative or judicial proceeding.

18 The bill expands the information relating to harassment and
19 bullying that schools are required to report to the department
20 of education. The bill authorizes the department to adopt
21 rules necessary to implement the bill.

22 The bill is not to be construed to limit or alter the
23 responsibility of a school to comply with other state or
24 federal education or civil rights laws that protect against
25 harassment or discrimination.

26 The bill is not to be construed to permit restraint of or
27 discipline for speech addressing legitimate matters of public
28 concern, including speech that a reasonable person would
29 consider an expression of political beliefs, religious beliefs,
30 or other categories of expression protected by the United
31 States and Iowa Constitutions, and that a reasonable person
32 would not find substantially likely to constitute "harassment"
33 or "bullying" as defined in the bill.

34 The bill is not to be construed to prohibit a school from
35 responding to or addressing an act or conduct that would

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1 constitute "harassment" or "bullying" as defined in the bill
2 but for the fact that the act or conduct occurred outside
3 the locations or circumstances covered by the school's
4 antiharassment and antibullying policy.